

TAXES AND TAX SALES IN THE DISTRICT OF COLUMBIA.

JANUARY 15, 1897.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HULICK, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 8499.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 8499) in relation to taxes and tax sales in the District of Columbia, have carefully considered the same, and, with an amendment herein suggested, recommend the passage of the bill in lieu of House bill 4149, upon the same subject, which was heretofore reported for passage.

The committee make the report on that bill a part of the report upon this bill now under consideration.

The Commissioners of the District approve of this bill and ask its passage in lieu of House bill 4149. The virtues of this bill are set forth in the annexed communication from the attorney for the District to the Commissioners.

The committee approve the bill, with the amendment suggested, and recommend the passage thereof.

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, December 19, 1896.

DEAR SIR: The Commissioners of the District of Columbia have the honor to transmit herewith copy of the opinion of the attorney of the District of Columbia, dated December 15, 1896, regarding House bill 8499, entitled "A bill in relation to taxes and tax sales in the District of Columbia," which opinion has their approval.

They recommend that this bill be amended by inserting, in section 3, page 5, line 8, after the word "full," the following: "and that before the deed is issued, as heretofore mentioned, notice shall be published three times in two daily newspapers published in the District of Columbia that a deed has been applied for, and that unless the owner or owners come forward within thirty days from date of said notice and pay all arrears of taxes, general and special, then due, the deed will be issued in accordance with the provisions of this act."

As thus amended the Commissioners strongly urge the passage of this bill at the earliest practicable date.

Very respectfully,

GEO. TRUESDELL,

Acting President Board of Commissioners of the District of Columbia.

Hon. JOSEPH W. BABCOCK,

Chairman Committee on the District of Columbia, Washington, D. C.

OFFICE OF THE ATTORNEY, DISTRICT OF COLUMBIA,
Washington, December 15, 1896.

GENTLEMEN: I have examined the inclosed bill (H. R. 8499, Fifty-fourth Congress, first session), in relation to taxes and tax sales in the District of Columbia.

This bill is a reprint of House bill 4149 (Fifty-fourth Congress, first session), with amendments (less about four sections), and is the result of a conference between Senator Martin, of Virginia, subcommittee of the Senate Committee on the District of Columbia, Mr. E. G. Davis, collector of taxes, Mr. Trimble, assessor of the District, and myself. The bill (H. R. 4149), which was prepared by Messrs. Trimble and Davis, was modeled largely on the lines of the law of New York on the subject, the tax law of that State approved May 16, 1893.

In order to meet the views of Senator Martin many changes were made in House bill 4149, resulting, if I remember rightly, in the elimination of part of section 3 and all of sections 7, 8, 9, and 10, which sections related principally to notice and the redemption of property from tax sales. The omitted parts had been drafted, with such modifications as it was supposed would meet the conditions in this District, from sections 10, 14, 16, and 32 of the New York statutes. But the Senator did not consider them as vital to the tax system of this District, and being also of opinion that they might, because of their harshness, endanger the success of the measure, they were dropped, as it was thought that both property owners and the District were sufficiently protected by the provisions which were retained.

The main body of our tax law is to be found in the act of Congress of March 3, 1877 (19 Stat. L., 396; Rich. Supp. Rev. Stat., 2d ed., 142), being the District appropriation bill for the fiscal year ending June 30, 1878.

Section 5 of that act provides, among other things:

"That no property advertised as aforesaid shall be sold upon any bids not sufficient to meet the amounts of tax penalty and costs; but in case the highest bid upon any property is not sufficient to meet the taxes, penalty, and costs thereon said property shall thereupon be bid off by the said Commissioners or their successors in office, in the name of the District of Columbia;

"But the property so bid off shall not be exempted from assessment and taxation, but shall be assessed and taxed as other property.

"And if, within two years thereafter, such property is not redeemed by the owner or owners thereof by the payment of the taxes, penalties, and costs due at the time of the offer of the sale, and that may have accrued after that date, and ten per centum per annum thereon, or if any property, two years after having been so bid off at any sale whatever in the name of said District, under this or any other law, and whether heretofore or hereafter made, is not or has not been so redeemed as aforesaid then the Commissioners of the District or their successors in office shall, in the name and on behalf of the District of Columbia, apply to the supreme court of said District, sitting in equity, for the purpose of enforcing the lien acquired as aforesaid by said District on the property aforesaid.

"And until such judicial proceedings shall be had the property so as aforesaid sold for taxes and bid off in the name of the District, either at any sale heretofore made or at any sale hereafter to be made, may be redeemed by the owner thereof by the payment of the taxes and all legal penalties and costs thereon."

By act approved March 19, 1890 (26 Stat. L., 24), it is provided that property once advertised and sold for the nonpayment of taxes shall not be again advertised for the same tax.

Prior to 1886 the Commissioners required all arrears of taxes to be paid as a condition precedent to issuing tax deeds, but in that year the general term of the supreme court of the District of Columbia held, in the case of *Brewer v. District* (5 Mackey, 274), that a tax deed made by the Commissioners in pursuance of a sale for an unpaid tax for a certain year passes the property to the purchaser discharged of the lien of all taxes remaining due and unpaid at the time of the sale, and which might have been, but which were not, included in the sale.

The decision in *Brewer's Case* being well known, many people, it is believed (as they may do), take advantage of it, allow their property to get in arrears for taxes, and after several years procure some one to buy it in for them at a tax sale, wait the two years allowed for redemption, when the nominal purchasers procure deeds and then come in and demand that the Commissioners cancel the arrears of taxes, and afterwards quitclaim the property to the original owners.

As a consequence, the District loses many thousands of dollars in arrears of taxes each year which could be saved if the law required all arrears of taxes to be paid as a condition precedent to delivering tax deeds.

It seems to me the difficulty you have to contend with in enforcing the collection of arrears of taxes can be removed or greatly reduced in one of three ways:

(a) If Congress will appropriate sufficient money to pay the fees of the clerk of the court and marshal you might institute suits in equity to enforce the District's lien for taxes, as contemplated by section 5 of the act of March 3, 1877, but in such

court proceedings it must be remembered that the District would have the burden of showing that its assessments were valid, while the owner would be entitled to contest every point going to the validity of the tax. Assuming that there are from ten to twelve thousand of these cases, and that the fees of the clerk's office are \$10 in each case, and the fees of the marshal will be \$1 for service of process on each defendant you can get some idea of the amount of money required for judicial expenses. It will also be necessary to increase the force of this office in order to conduct that branch of litigation.

(b) Another remedy is to repeal the provision in the act of March 3, 1877, in regard to the enforcement by the District lien for taxes by judicial proceedings, and the provision in the act of March 19, 1890, that property once advertised and sold for the nonpayment of taxes and bid in by the District shall not be again advertised for the same tax, and substitute therefor a direction to the Commissioners to include in their next annual sale all taxes in arrears. This, of course, would enlarge the delinquent list, and consequently the expense of advertising, and would also necessitate a large increase in clerical force, to enable the collector's office to prepare the lists for the printer.

(c) Another simpler and more effective way is to amend the law by adding to it a provision that no tax deed shall be issued by the Commissioners until all arrears of taxes, assessments, costs, and charges are paid, as proposed in the bill under consideration.

This bill (H. R. 8499) is the result, as before stated, of a conference. It is intended to be a complete tax law, and to supersede all other legislation on the subject.

While it retains the feature of the act of 1877 that property which has been once advertised and sold for the nonpayment of taxes shall not be again advertised for the same tax, section 3 provides that the Commissioners may issue deeds for such property from time to time to purchasers who pay the amount of the taxes, interest, and costs. If this was a feature of existing law, property owners would not take the risk of allowing their property to get in arrears, in view of the possibility of its being sold at private sale by the Commissioners. The risk of losing their property being greater than the advantage to be gained by delaying payment of taxes would stimulate property owners to pay their taxes promptly.

This bill sufficiently protects the interests of minors and other persons under legal disability. It makes the tax deed prima facie evidence of the regularity of everything leading up to it, and casts the burden upon the owner of showing irregularities, which would vitiate the deed.

Without going further into the matter, it seems to me that the bill is one whose merits should commend it to the favorable consideration of the District Committees in Congress.

Very respectfully,

The COMMISSIONERS.

S. T. THOMAS,
Attorney District of Columbia.

